

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of Lodi Gas Storage, L.L.C., Western Hub Properties L.L.C., and WHP Acquisition Company, LLC, to Transfer Control of Lodi Gas Storage, L.L.C., to WHP Acquisition Company, LLC, Which Will Occur Indirectly as a Result of the Purchase of Western Hub Properties L.L.C. by WHP Acquisition Company, LLC, Pursuant to Public Utilities Code Section 854(a) and of Lodi Gas Storage, L.L.C. for Approval of a Secured Long-Term Financing Pursuant to Public Utilities Code Sections 816, 817, 818, 823 and 851.

Application 01-09-045
(Filed September 28, 2001)

**ADMINISTRATIVE LAW JUDGE'S RULING
ACCEPTING DECLARATION REGARDING NAME CHANGE AND GRANTING
LEAVE TO FILE CONFIDENTIAL MATERIALS UNDER SEAL**

This ruling resolves two pending motions.

Motion for an Order Accepting Declaration Regarding Name Change.

This ruling grants the portion of Joint Applicants' March 5, 2002 motion that remains pending following issuance of an Administrative Law Judge (ALJ) ruling, on March 8, to shorten time to respond to the motion, as Joint Applicants' requested. No responses were filed and the motion is unopposed.

The motion asks the Commission to accept for filing the attached declaration regarding corporate name change, dated March 4, 2002 and executed by Jeffrey D. Ayers, General Counsel and Corporate Secretary of Aquila Merchant Services (AMS), formerly Aquila, Inc. Ayers' declaration, signed under penalty of perjury, explains that the corporate name change has occurred

because the holding company parent, UtiliCorp United Inc. (UtiliCorp), has taken, for itself, the name Aquila, Inc. after successfully acquiring all outstanding public shares of the entity now known as AMS. Previously, on November 20, 2001, Joint Applicants filed an amendment to their application which discloses UtiliCorp's intention to acquire those public shares (approximately 20% of the outstanding common shares) and thereafter, to change its name. The declaration states that the name change "did not result in any change in the business or operations or corporate structure of [AMS]". The declaration is accepted for filing as part of the record of this proceeding.

Motion for Leave to File Confidential Materials Under Seal. By motion filed May 22, 2002, Joint Applicants request leave to file under seal certain materials provided on that same date as part of their Response to Assigned Commissioner's Ruling on Market Power. Joint Applicants provided a number of exhibits (Exhibits A through V) together with their written response to the ruling; they ask for confidential treatment of Exhibits A-U. Joint Applicants do not ask for confidential treatment of Exhibit V, which consists of selected pages from the application filed in this proceeding. The motion is unopposed.

Each exhibit is separately identified in the two-page attachment to the motion as well as in the response. Complete copies of the exhibits were tendered under seal as attachments to the motion. Most of the exhibits consist of market studies prepared for one or more Joint Applicants, geological analyses, and miscellaneous internal e-mail. Two exhibits consist of news stories from well-known industry periodicals (i.e., Exhibit J, two pages from the June 20, 2001 edition of *Transportation and Storage Hub* and Exhibit K, one page from the online version of the June 28, 2001 edition of *Gas Daily*). A third exhibit (Exhibit P) consists of selected pages from the draft Environmental Impact Report (EIR)

prepared for the Commission in Application (A.) 98-11-012, the original certificate proceeding for Lodi Gas Storage, L.L.C. (Lodi).

Joint applicants note that Lodi is a competitive gas storage utility and operates under a market-based rate authority. Thus like its competitors, Wild Goose Gas Storage and Pacific Gas and Electric Company (for noncore storage capacity), Lodi's operations are exposed to market risks. Joint Applicants argue that public disclosure of Exhibits A-U would be competitively advantageous to Lodi's present competitors as well as to other entities contemplating entry into the independent gas storage market and thus, would place Lodi at an unfair business disadvantage. Joint Applicants state the information would "be very useful in determining the economics of [Lodi] and in estimating [Lodi's] fixed and marginal costs and in devising pricing strategies to compete with [Lodi]." (Motion at p. 3.)

The Commission has generally granted leave, under General Order 66-C and authority cited there, for the filing under seal of unredacted documents containing various kinds of commercially sensitive information which, if disclosed, would place a regulated company at an unfair business disadvantage. With the exception of Exhibits J, K, and P, which are already public documents, Joint Applicants have made a prima facie case that the information at issue should be filed under seal and a public hearing on the motion is not needed. Accordingly, the motion to file under seal is granted to the extent set out in the ruling paragraphs below.

IT IS RULED that:

1. Joint Applicants' March 5, 2002 motion is granted. The declaration, dated March 4, 2002 and executed by Jeffrey D. Ayers, General Counsel and Corporate

Secretary of Aquila Merchant Services (AMS), attached to the motion, is accepted for filing as part of the record of this proceeding.

2. Joint Applicants' May 22, 2002 motion for leave to file confidential materials under seal is granted in part, as further specified in these ruling paragraphs.

(a) Joint applicants may file under seal the following exhibits to the May 22, 2002, Response to Assigned Commissioner's Ruling on Market Power: Exhibits A through I, Exhibits L through O, and Exhibits Q through U.

(b) The following exhibits to the May 22, 2002, Response to Assigned Commissioner's Ruling on Market Power shall be placed in the public file: Exhibits J, K, P and V.

3. The documents identified in ruling paragraph 2.(a) shall remain under seal for a period of two years from the date of this ruling.

4. During the two-year period, the documents identified in Ruling paragraph 2.(a) shall not be made accessible or disclosed to anyone other than Commission staff except pursuant to (a) the further order or ruling of the Commission, the Assigned Commissioner, the assigned ALJ, or the ALJ then designated as Law and Motion Judge, or (b) the terms of a reasonable nondisclosure agreement for purposes of this proceeding. Any party intending to include information, which this ruling places under seal, in any document submitted for filing in this proceeding shall submit the unredacted version of the document under seal, together with a redacted version for the public record.

5. If joint applicants, or any of them, believe that the information which this ruling places under seal should be protected beyond two years, they may file a motion stating the justification for further withholding the documents from public inspection.

Dated July 19, 2002, at San Francisco, California.

/s/ JEAN VIETH

Jean Vieth
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Accepting Declaration Regarding Name Change and Granting Leave to File Confidential Materials Under Seal on all parties of record in this proceeding or their attorneys of record.

Dated July 19, 2002, at San Francisco, California.

/s/ FANNIE SID

Fannie Sid

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.